

Sixth Appellate District

San Jose, California

MONDAY, FEBRUARY 14, 2005

H027658 PEOPLE v. EDRA

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed February 14, 2005

H026912 PEOPLE v. GARCIA

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed February 14, 2005

H026974 MARRIAGE OF RAJAPPAN

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Rushing, P.J., Walsh, J.*)

Filed February 14, 2005

(*Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

TUESDAY, FEBRUARY 15, 2005

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; McAdams, J.; Walsh, J.* and Jane Valdez Flor, Deputy Clerk. (*Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

H025966 LIBRERS v. BLACK

Cause called and argued by Stephen W. Penn appearing for Appellant and by Patrick E. Standifer appearing for Respondent. Cause ordered submitted.

H026821 BERG & BERG ENTERPRISES v. SHERWOOD PARTNERS, INC.; KUPETZ

Cause called and argued by Alan G. Tippie appearing for Appellant and by Hall R. Marston appearing for Appellant and by Robert Rory Moore appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, February 15, 2005 (continued)

Rushing, P.J. and Walsh, J*. leave the bench and Bamattre-Manoukian, J., and Mihara, J. take the bench.
(*Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

H026904 R. JAY DESERPA, LTD. v. PINCH

Cause called and argued by Michael P. Masuda appearing for Appellant R. Jay Deserpa, Ltd. and by John Viljoen appearing for Appellant Pinch. Cause ordered submitted.

H026802 EVANS v. CITY OF SAN JOSE, et al.

Cause called and argued by Michelle A. Madriaga appearing for Appellant and by Nora Frimann, Deputy City Attorney, appearing for Respondents. Cause ordered submitted.

Court recesses until 1:30 p.m.

H026460 PEOPLE v. VALERIO, et al.

The judgments are affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed February 15, 2005

H026613 FERRETTI, et al. v. EVERSTINE, et al.

The trial court's order granting the motion of defendants Diana Everstine, Ph.D., Behavior Data, Inc., and Affiliated Psychologists & Counselors, Inc. to strike the second amended complaint is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed February 15, 2005

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California.

Present: Rushing, P.J.; Premo, J.; Walsh, J.*; and Beth Miller, Deputy Clerk.

(*Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

H026461 PEOPLE v. RUBALCABA

Cause called and argued by Ruth McVeigh appearing for Appellant and by Morris Lenk, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Tuesday, February 15, 2005 (continued)

Rushing, P.J.; Premo, J.; Walsh, J.*, leave the bench and Bamattre-Manoukian, Acting P.J. and McAdams, J. take the bench. (*Judge of the Santa Clara County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

H026937 PEOPLE v. OTTINGER

Cause called and argued by Kenneth Ray Carver appearing for Appellant and by Rene A. Chacon, Deputy Attorney General, appearing for Respondent. Cause argued. Submission deferred pending review of the taped oral argument proceedings by Elia, J.

Mihara, J. joins the bench.

H026624 PEOPLE v. JESSE H.

Cause called and argued by Jeanine Grimmond Strong appearing for Appellant and by Martin S. Kaye, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H026913 PEOPLE v. COSTA

Cause called and argued by Cindy A. Diamond appearing for Appellant and by Christopher W. Grove, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H026037 PEOPLE v. BERMUDEZ

Cause called and argued by Joanne Madden appearing for Appellant and by Allen R. Crown, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H026742 PEOPLE v. AGIN

Cause called and argued by Meredith Fahn appearing for Appellant and by Rene A. Chacon, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Court is adjourned.

Sixth Appellate District

San Jose, California

Tuesday, February 15, 2005 (continued)

H024089 DENEVI v. GREEN VALLEY CORPORATION, et al.
H024292 DENEVI v. GREEN VALLEY CORPORATION, et al.
H024293 DENEVI v. GREEN VALLEY CORPORATION, et al.
H024374 DENEVI v. GREEN VALLEY CORPORATION, et al.
H025206 DENEVI v. GREEN VALLEY CORPORATION, et al.

By the Court*:

The petitions for rehearing filed by Pietro G. Denevi and Green Valley Corporation, et al., are denied.

Filed: February 15, 2005

*Before Rushing, P.J., Premo, J. and Elia, J.

H025958 LOCKTON v. SMALL, et al.

We reverse the challenged order, which was entered on March 14, 2003. We remand this matter to the trial court, with instructions to grant the defendants' special motion to strike as to all four causes of action of the plaintiff's complaint, pursuant to section 425.16. Defendants shall have their costs on appeal. (not published)

(McAdams, J.; We concur: Elia, Acting P.J., Bamattre-Manoukian, J.)

Filed February 15, 2005

WEDNESDAY, FEBRUARY 16, 2005

H027569 PEOPLE v. GREGORY V.

The order appealed from is affirmed. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed February 16, 2005

H026953 PEOPLE v. OSIO

By the Court:

Upon the court's own motion, the submission order in the above-entitled matter dated February 4, 2005, is hereby vacated. The court by separate letter issued February 15, 2005, has requested supplemental briefing from the parties. The cause will be resubmitted upon completion of supplemental briefing.

Dated: February 16, 2005 Rushing, P.J.

Sixth Appellate District

San Jose, California

Wednesday, February 16, 2005 (continued)

H026810 PEOPLE v. DAYE

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed February 16, 2005

H026936 PEOPLE v. CRUZ

(Filed order modifying opinion.) The petition for rehearing
is denied. There is no change in judgment. (not published)
(Premo, J.; Rushing, P.J.; Elia, J.)
Filed February 16, 2005

H027086 IN RE ISIDRO DeLUNA ON HABEAS CORPUS

(Filed order modifying opinion.) There is no change in the
judgment. (published)
(Walsh, J.*; Premo, Acting P.J.; Bamattre-Manoukian, J.)
Filed February 16, 2005
(*Judge of the Santa Clara County Superior Court assigned by the
Chief Justice pursuant to article VI, section 6 of the California
Constitution.)

H027084 CHAUDARY on Habeas Corpus

By the Court*:

Appellant's petition for rehearing is denied.
Filed: February 16, 2005
*Before Rushing, P.J., Premo, J. and Mihara, J.

THURSDAY, FEBRUARY 17, 2005

H027804 PEOPLE v. VARELA

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara,
J.)
Filed February 17, 2005

H027421 PEOPLE v. GUZMAN

The appeal is dismissed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara,
J.)
Filed February 17, 2005

Sixth Appellate District

San Jose, California

FRIDAY, FEBRUARY 18, 2005

H027180 PEOPLE v. SMITH

The order requiring defendant to provide blood and saliva samples for HIV testing pursuant to Penal Code section 1202.1, subdivision (a), is vacated. The superior court is directed to amend the abstract of judgment accordingly and to forward a certified copy to the Department of Corrections. In all other respects, the judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed February 18, 2005

H027224 PEOPLE v. CUBILLOS

The judgment is modified to strike the section 12022.6 enhancement. The trial court is directed to amend the abstract of judgment accordingly and forward a certified copy of the amended abstract to the Department of Corrections. As modified, the judgment of conviction is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed February 18, 2005

H027339 PEOPLE v. LY

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed February 18, 2005

H027292 PEOPLE v. MORRIS

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed February 18, 2005

H027605 In re K.B.; DFCS v. JOSEPH B., et al.

Father's request for judicial notice is granted. Father's motion for leave to file a supplemental opening brief is denied. The findings and orders of the June 1, 2004 hearing are affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed February 18, 2005

Sixth Appellate District

San Jose, California

Friday, February 18, 2005 (continued)

H026889 PEOPLE v. LOWE

By the Court*:

Appellant's petition for rehearing is denied.

Filed: February 18, 2005

*Before Rushing, P.J., Premo, J. and Mihara, J.

H026889 PEOPLE v. LOWE

By the Court:

The written opinion which was filed on January 24, 2005, is certified for publication. (Mihara, J.; Rushing, P.J., Premo, J.)

The written opinion which was filed on January 24, 2005, has now been certified for publication in its entirety pursuant to California Rules of Court, rule 976(b), and it is therefore ordered that it be published in the Official Reports.

Dated: February 18, 2005 Rushing, P.J.

H027572 PEOPLE v. FRANCISCO M.

We modify the order by vacating the brandishing finding. As modified, the order is affirmed. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)

Filed February 18, 2005